

BEFORE THE DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
Against: )

BERT RETTNER, M.D. )  
275 O'Connor Drive )  
San Jose, California 95128 )

No. D-1700

License No. 20A-2834 )

N-7647

Respondent. )

ORDER ESTABLISHING NEW EFFECTIVE DATE OF DECISION

The Division of Medical Quality revoked respondent's license in a final decision dated August 10, 1978, with an effective date of September 11, 1978.

Respondent then filed a mandamus petition and obtained a stay order from the San Francisco County Superior Court, which ultimately issued a judgment ordering the Division to reconsider the penalty for being excessive.

The Division appealed. The Court of Appeal ruled in favor of the Division by ordering the Superior Court to vacate its judgment and to deny the mandamus petition. This has been done. Judicial review has been completed and all stay orders have been dissolved. For purposes of certainty, a new effective date is now made.

The new effective date of the disciplinary decision providing for revocation shall be September 17, 1982.

Dated: August 18, 1982

DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE

By

Vernon A. Leeper  
VERNON LEEPER

REDACTED

BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE  
DIVISION OF MEDICAL QUALITY  
STATE OF CALIFORNIA

In the Matter of the Accusation  
Against

BERT RETTNER, MD  
275 O'Connor Drive  
San Jose, California 95128

License No. 20A-2834

Respondent.

No. D-1700


N-7647

DECISION

The attached Proposed Decision of the Administrative Law  
Judge is hereby adopted by the Board of Medical Quality  
Assurance as its Decision in the  
above-entitled matter.

This Decision shall become effective on September 11, 1978.

IT IS SO ORDERED August 10, 1978.

  
MICHAEL J. CARELLA  
Secretary-Treasurer

BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE

DIVISION OF MEDICAL QUALITY

STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against	)	
	)	
BERT RETTNER, M.D.	)	
275 O'Connor Drive	)	No. D-1700
San Jose, California 95128	)	
License No. 20A-2834	)	N-7647
	)	
Respondent.	)	

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PROPOSED DECISION

This matter came for hearing before George R. Coan, Administrative Law Judge, State of California, Office of Administrative Hearings, on March 28, 29, 30, and 31, 1978, in San Francisco, California.

R. Richard Arnold, Deputy Attorney General, represented the Division of Medical Quality.

Stephan A. Barber and Eugene La More, Attorneys at Law, represented the respondent.

The matter was submitted and the following decision is proposed, certified, and recommended for adoption:

FINDINGS OF FACT

I

Raymond Reid made the Accusation in his then official capacity as the Executive Secretary of the State Board of Medical Quality Assurance.

II

On or about July 3, 1962, respondent Bertram Morris Rettner was issued Osteopathic Physician and Surgeon license No. 20A-2834 by the Board of Osteopathic Examiners. On July 14, 1962, respondent elected to use the designation "M.D." rather than "D.O." thereby submitting himself to the jurisdiction of the Board of

Medical Quality Assurance. The aforementioned license is and has been at all times mentioned herein in full force and effect.

### III

On or about August 13, 1974, in the Superior Court of the Santa Cruz County, State of California, Case No. 52898, respondent was convicted of having violated Penal Code Section 254 (assault with a deadly weapon), a felony. Respondent was fined \$5,000 plus a penalty assessment of \$1,250, sentenced to serve ninety (90) days in the County Jail, continue in psychiatric counseling, and placed on probation for three (3) years.

On December 15, 1976, the Court granted respondent's motion to enter a plea of not guilty pursuant to Penal Code Section 1203.4, and the matter was dismissed. Respondent had assaulted his wife during a temporary reconciliation while divorce proceedings were pending.

### IV

Respondent employed in his medical office Robert Blumenthal from August 1973 to November 1973. During said employment, Blumenthal was unlicensed in any healing arts capacity and was permitted by respondent to perform functions constituting the practice of medicine as follows:

- a) Perform physical examination on patients;
- b) Make diagnostic impressions based on physical examination;
- c) Treat diagnosed Hypoglycemia patients;
- d) Start and treat arteriosclerotic patients with I.V. chelation therapy;
- e) Alter or modify medical treatment for patients; and
- f) Dispense amphetamines and other drugs to patients.

### V

Respondent employed in his medical office Charles Juran from January 1973 to November 1973. During said employment, Charles Juran was unlicensed in any healing arts capacity and was permitted by respondent to perform functions constituting the practice of medicine as follows:

- a) Treat diagnosed Hypoglycemia patients;
- b) Start and treat arteriosclerotic patients with I.V. chelation therapy; and
- c) Alter or modify medical treatment for patients.

## VI

The evidence did not establish that respondent either sold, prescribed, furnished, or administered Laetrile (aka Aprikern) for either the diagnosis, treatment, alleviation, or cure of cancer for anyone.

## VII

From on or about March 1974 to on or about September 1974, respondent was professionally employed by C. G. G. G. G. had been diagnosed as epileptic and had had a brain operation some years previous to seeing respondent. She had been prescribed and had been taking Dilantin and Mysoline. Respondent advised G. G. to discontinue completely the Dilantin and Mysoline previously prescribed by another doctor. G. G. had wanted to discontinue taking the medicine. Respondent advised her there was a possibility that she could suffer a seizure. One week after discontinuing the drugs, G. G. suffered two major motor seizures in one day.

The evidence established that taking a patient completely off Dilantin without a gradual withdrawal of the drug is an extreme departure from the standards of practice of medicine.

## VIII

From March 1974 to June 1974, respondent was professionally employed by A. C. C. His diagnosis was 1) epileptic equivalent, 2) migraine equivalent, 3) Hypoglycemia, 4) iron deficiency anemia, and 5) multiple nutritional and metabolic deficiencies. C. told him she had been taking Dilantin, 100 mg, once a day when she remembered (her prior physician had, in fact, prescribed 300 mg daily in December 1973). Without obtaining prior medical records on C., respondent told her to discontinue Dilantin and prescribed Thyroid, 2 mg, vitamins, and Darvon. Respondent continued to treat C. and last saw her on June 13, 1974, at which time he noted she was still having headaches and had a syncope but no seizure. On June 14, 1974, C. suffered a seizure and died on June 16, 1974. The evidence established that C. was a drug abuser.

The evidence established that taking a patient completely off Dilantin without a gradual withdrawal is an extreme departure from the standards of practice of medicine.

## IX

The evidence does not establish that respondent's care and treatment of patient J. P. was either grossly negligent or incompetent.

X

Respondent introduced evidence establishing the following:

1. He has a B.S. degree from Miami University, 1956, where he graduated cum laude and second in his class. He received his Doctor of Osteopathy degree from Kansas City College of Osteopathy and Surgery in 1961 and interned at the North Miami Beach Osteopathic Hospital. He was licensed in California in 1962.

2. From 1962 to 1970, he was in general practice with emphasis on obesity. From 1971 to the present he has been in general practice employing holistic techniques.

3. He has been a member of AMA, CMA, American College of Applied Nutrition, American Academy of Preventative Medicine, and the California Orthomolecular Society.

4. Prior to being employed by respondent, Robert Blumenthal had served for three years in the United States Army, where he had successfully completed a 56-week medical course. He then served in Viet Nam. He had also taken a physician's assistant course at Foothill College and was licensed as an R.N. in California in 1975.

5. Prior to being employed by respondent, Charles Juran had been given a 42-week Clinical Specialist course in the United States Army. In 1975, he was licensed as an R.N. in California.

6. In 1973, he had two offices; one in San Jose, and one in Fremont. These offices are now closed, and he has one office in San Jose.

#### DETERMINATION OF ISSUES

##### I

On the facts found in Finding III, respondent has been convicted of a felony which may be grounds for disciplinary action pursuant to Business and Professions Code Sections 2383 and 2372; however, under the circumstances, no discipline ought to be assessed against respondent.

##### II

On the facts found in Findings IV and V, grounds for disciplinary action have been established against respondent pursuant to Business and Professions Code Sections 2392 and 2372.

### III

On the facts found in Finding VI, respondent has not violated Health and Safety Code Section 1701.1, or Section 10400.1 (c) of Title 17, California Administrative Code; and there is no grounds for disciplinary action pursuant to Business and Professions Code Sections 2378.5 and 2372.

### IV

On the facts found in Findings VII and VIII, respondent has demonstrated gross negligence, which is grounds for disciplinary action pursuant to Business and Professions Code Sections 2361(b) and 2372.

### V

On the facts found in Findings VII and VIII, respondent has demonstrated incompetence, which is grounds for disciplinary action pursuant to Business and Professions Code Sections 2361(c) (now Section 2361(d)) and 2372.


### VI

On the facts found in Finding IX, no grounds for disciplinary action were established pursuant to Business and Professions Code Sections 2361(b), 2361(c) (now 2361(d)), and 2372.

### ORDER

License No. 20A-2834, issued to Bert Rettner, M.D., is revoked on the facts found in Findings IV, V, VII, and VIII, and the related Determination of Issues; each separately and severally considered.

DATED: April 25, 1978

  
George R. Coan  
Administrative Law Judge

GRC:map

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Medical Quality Assurance

BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE

DIVISION OF MEDICAL QUALITY

STATE OF CALIFORNIA

In the Matter of the Accusation  
against

No. D-1700

BERT RETTNER, M.D.  
275 O'Connor Drive  
San Jose, California 95128  
License No. 20A-2834

ACCUSATION

Respondent.

Raymond Reid charges and alleges:

1. That he is the Executive Secretary of the State Board of Medical Quality Assurance and that he makes these charges and allegations in his official capacity and not otherwise.

2. That on or about July 3, 1962, respondent Bertram Morris Rettner was issued Osteopathic Physician and Surgeon license No. 20A-2834 by the Board of Osteopathic Examiners. That on July 14, 1962, respondent elected to use the designation "M.D." rather than "D.O." thereby submitting himself to the jurisdiction of the Board of Medical Quality Assurance; that the aforementioned license is and has been at all times mentioned herein in full force and effect.

3. That on or about August 13, 1974, in the Superior Court of the Santa Cruz County, State of California,



1 Case No. 52898, respondent was convicted of having violated Penal  
2 Code section 245 (assault with a deadly weapon), a felony.

3 FIRST CAUSE FOR DISCIPLINARY ACTION

4 4. That respondent's conviction as alleged in  
5 paragraph 3 above is the conviction of a felony and/or an  
6 offense involving moral turpitude and constitutes grounds  
7 for disciplinary action pursuant to Business and Professions  
8 Code sections 2383 and 2372.

9 \* \* \*

10 5. That respondent employed in his medical office  
11 Robert Blumenthal from August 1973 to November 1973 and  
12 Charles Juran from January 1973 to November 1973. That during  
13 said employment, said individuals who were unlicensed in any  
14 healing arts capacity were permitted by respondent to perform  
15 functions constituting the practice of medicine including but  
16 not limited to the following:

- 17 (a) Perform physical examination on patients;  
18 (b) Make diagnosis on patients;  
19 (c) Treat diagnosed Hypoglycemia patients;  
20 (d) Start and treat arteriosclerotic patients  
21 with I.V. chelation therapy;  
22 (e) Alter or modify medical treatment for  
23 patients; and  
24 (f) Dispense amphetamines and other drugs to  
25 patients.

26 SECOND CAUSE FOR DISCIPLINARY ACTION

27 6. That respondent's conduct as alleged in  
28 paragraph 5 above constitutes grounds for disciplinary action  
29 pursuant to Business and Professions Code sections 2392 (aiding  
30 and abetting unlicensed persons) and 2372.

31 \* \* \*

1           7. That respondent did sell, prescribe, furnish,  
2 or administer Laetrile (aka Aprikern) for the diagnosis,  
3 treatment, alleviation, or cure of cancer including but not  
4 limited to the following persons:

5           (a) Charles L. [REDACTED] aka B. E. [REDACTED]

6           THIRD CAUSE FOR DISCIPLINARY ACTION

7           8. That respondent's conduct as alleged in paragraph  
8 7 is a violation of section 10400.1(c) of Title 17 of the  
9 California Administrative Code, and is grounds for disciplinary  
10 action pursuant to Business and Professions Code sections 2378.5  
11 (violation of cancer laws) and 2372.

12           FOURTH CAUSE FOR DISCIPLINARY ACTION

13           9. That respondent's conduct as alleged in paragraph 7  
14 above is a violation of Health and Safety Code section 1707.1  
15 and is grounds for disciplinary action pursuant to Business  
16 and Professions Code sections 2378.5 (violation of cancer laws)  
17 and 2372.

18                           \*       \*       \*

19           10. That from on or about March 1974, to on or  
20 about September 1974, respondent was professionally employed  
21 by Carol G. [REDACTED]. That during said period, respondent in  
22 a grossly negligent and/or incompetent manner did treat,  
23 diagnose, prognose, prescribe for, and care for Carol G. [REDACTED].  
24 Included within said conduct was respondent's discontinuance  
25 of anti-convulsant medication for said patient who was an  
26 epileptic. As a result of the discontinuance of the anti-convulsant  
27 medication, Carol G. [REDACTED] subsequently suffered a major motor  
28 seizure.

29           FIFTH CAUSE FOR DISCIPLINARY ACTION

30           11. That respondent's conduct as alleged in paragraph  
31 10 above constitutes grounds for disciplinary action pursuant to

1 Business and Professions Code section 2361(b) (gross negligence)  
2 and 2372.

3 SIXTH CAUSE FOR DISCIPLINARY ACTION

4 12. That respondent's conduct as alleged in paragraph  
5 10 above constitutes grounds for disciplinary action pursuant  
6 to Business and Professions Code sections 2361(c) (incompetence)  
7 and 2372.

8 \* \* \*

9 13. That from on or about March 1974, to on  
10 or about June 1974, respondent was professionally employed by  
11 Alice C [REDACTED]. That during said period, respondent in a grossly  
12 negligent and/or incompetent manner did treat, diagnose, prognose,  
13 prescribe for, and care for Alice C [REDACTED]. Included within said  
14 conduct was respondent's discontinuance of anti-convulsant  
15 medication for said patient who was an epileptic. As a result  
16 of the discontinuance of the anti-convulsant medication,  
17 Alice C [REDACTED] subsequently expired.

18 SEVENTH CAUSE FOR DISCIPLINARY ACTION

19 14. That respondent's conduct as alleged in paragraph  
20 13 above constitutes grounds for disciplinary action pursuant  
21 to Business and Professions Code sections 2361(b) (gross  
22 negligence) and 2372.

23 EIGHTH CAUSE FOR DISCIPLINARY ACTION

24 15. That respondent's conduct as alleged in  
25 paragraph 13 above constitutes grounds for disciplinary action  
26 pursuant to Business and Professions Code sections 2361(c)  
27 (incompetence) and 2372.

28 \* \* \*

29 16. That from on or about March 1973, to on or  
30 about May 1973, respondent was professionally employed by  
31 Julie P [REDACTED] Julie P [REDACTED]'s medical complaint to respondent  
during said period included vomiting, nausea, fatigue, and

1 chronic headaches. That respondent in a grossly negligent and/or  
2 incompetent manner did treat, diagnose, prognose, prescribe for,  
3 and care for Julie P [REDACTED] who upon subsequent examination  
4 by other physicians was diagnosed as having a brain tumor from  
5 which Julie P [REDACTED] ultimately expired.

6 NINTH CAUSE FOR DISCIPLINARY ACTION


7 17. That respondent's conduct as alleged in paragraph 16  
8 above constitutes grounds for disciplinary action pursuant to  
9 Business and Professions Code sections 2361(b) (gross negligence)  
10 and 2372.

11 TENTH CAUSE FOR DISCIPLINARY ACTION

12 18. That respondent's conduct as alleged in paragraph 16  
13 above constitutes grounds for disciplinary action pursuant to  
14 Business and Professions Code sections 2361(c) (incompetence)  
15 and 2372.

16 WHEREFORE, the Board of Medical Quality Assurance,  
17 Division of Medical Quality, prays that it may take such action  
18 as it deems appropriate.

19 DATED: 1/24/76

20   
21 RAYMOND REID, Executive Secretary  
22 BOARD OF MEDICAL QUALITY ASSURANCE  
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